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11 Attorneys for Defendant Google Inc.

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13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

15

16 CLRB HANSON INDUSTRIES, LLC d/b/a  
17 INDUSTRIAL PRINTING, and HOWARD  
18 STERN, on behalf of themselves and all others  
similarly situated,

19 Plaintiffs,

20 v.

21 GOOGLE, INC.,

22 Defendant.

23 CASE NO. C 05-03649 JW

24 **SUPPLEMENTAL DECLARATION OF  
25 LESLIE M. ALTHERR IN SUPPORT  
26 OF GOOGLE INC.'S OPPOSITION TO  
27 PLAINTIFFS' SUPPLEMENTAL  
28 MEMORANDUM IN SUPPORT OF  
PARTIAL SUMMARY JUDGMENT**

29 I, Leslie M. Altherr, declare as follows:

30 1. I am employed as a Senior Litigation Paralegal at Google Inc. ("Google"). I  
31 submit this declaration in support of Google's Opposition to Plaintiffs' Supplemental  
32 Memorandum In Support of Partial Summary Judgment. I have personal knowledge of the facts  
33 set forth below except as to those matters stated on information and belief, and as to those  
34 matters, I believe them to be true. If called upon to testify, I could and would testify competently

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1 as to the matters set forth herein. I submit this declaration under the direction of counsel and,  
2 except for the matters stated herein, do not waive any attorney-client or work product privileges.

3       2. When Google is involved in litigation, Google's practice is to send a litigation  
4 hold memorandum to employees with relevant documentation. Google's practice was followed  
5 in this case. Specifically, I have confirmed that a litigation hold memorandum was sent to  
6 Heather Wilburn by email on August 22, 2005 and was sent to Michael Schulman and  
7 Shivakumar Venkataraman on October 11, 2005.

8       3. From approximately July through October 2006, the legal department engaged in  
9 an effort to locate all documentary evidence that AdWords advertisers must click and accept the  
10 AdWords Agreement before their accounts can be opened. Such records are currently  
11 maintained by the Online Operations team. The Online Operations team currently archives  
12 records of an advertiser's acceptance of the current AdWords Agreement, but did not archive the  
13 original "click and accept" records in July 2002 and October 2003, when plaintiffs opened their  
14 accounts. Accordingly, such records do not exist for the period when plaintiffs signed up for  
15 their accounts.

16       4. Ms. Wilburn is not a member of the Online Operations Team, which maintains  
17 the "click and accept" records. I therefore did not contact her as part of my initial efforts to  
18 locate such records. After Google's initial document production in this case, in connection with  
19 preparing for her March 2007 deposition, Ms. Wilburn supplied the legal department with a five  
20 year old binder of AdWords training materials which she personally maintained in her office.  
21 This binder included a printout of a PowerPoint presentation which included a single page  
22 screenshot showing the "click and accept" page for the 2002 period. This document was not part  
23 of any materials maintained by the Online Operations team. The legal department immediately  
24 supplied this document to our outside counsel for production to plaintiffs in this litigation.

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5. Ms Wilburn is currently traveling outside of the country and cannot be reached.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

4 Executed this 10<sup>th</sup> day of May, 2007, at Mountain View, California.

  
Leslie M. Alther

Leslie M. Altherr

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**SUPPLEMENTAL DECLARATION OF LESLIE M. ALTHERR  
CASE NO. 05-03649**

[41063-0023]

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